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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/09
LAST UPDATED 03/02/09 **HB** _____

SPONSOR Wirth

SHORT TITLE Electronic Court Services & Fees **SB** 277/aSJC

ANALYST Wilson

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
	\$20.0*	\$40.0*	Recurring	Electronic Services Fund

(Parenthesis () Indicate Revenue Decreases)

*AOC estimates of funds generated by fees; not General Fund appropriation.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo County Metropolitan Court (BCMC)
 Public Defender Department (PDD)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary amendment to SB 277 requires the Supreme Court to approve an agreement that allows an electronic filing company to retain a portion of the electronic services fees collected and to remit the remainder of those fees to the AOC for deposit in the electronic services fund.

Synopsis of Original Bill

Senate Bill 277 will enact a new Section of Chapter 34, Article 1 NMSA that creates an Electronic Services Fund in the state treasury, to consist of electronic services fees, appropriation, gifts, grants and donations, to be administered by the AOC. Money in the fund is subject to appropriation by the legislature to the AOC for the purpose of defraying costs of operating and maintaining electronic filing services and providing public access to electronic documents in appellate, district, metropolitan and magistrate courts, consistent with rules promulgated by the Supreme Court.

The bill will enact a new section that permits the clerk of the Supreme Court to charge and collect from persons who use electronic services an electronic services fee in an amount to be established by Supreme Court rule.

The bill will enact a new section that permits the clerk of the Court of Appeals to charge and collect from persons who use electronic services an electronic services fee in an amount to be established by Supreme Court rule.

The bill will permit a district court to charge and collect from persons who use electronic services an electronic services fee in an amount to be established by Supreme Court rule.

The bill will permit a metropolitan court to charge and collect from persons who use electronic services an electronic services fee in an amount to be established by Supreme Court rule.

The bill will permit the clerk of the court of appeals to charge and collect from persons who use electronic services an electronic services fee in an amount to be established by Supreme Court rule.

FISCAL IMPLICATIONS

The bill will allow the Supreme Court to charge a nominal fee to cover the cost of vendor supplied electronic filing services to attorneys and non-indigent *pro se* filers of civil cases in New Mexico Courts. All fees collected will be deposited in the Electronic Services Fund created by the Bill, and will be used to offset costs associated with court e-filing programs.

The Judiciary anticipates that e-filing convenience fees charged to attorneys will be more than offset by savings in postage, staff time, attorney time, and transportation costs associated with manual court filings. Other benefits of e-filing include electronic access by filers to documents filed by any party to a particular courts case and a complete online document repository for all documents associated with a civil case. These anticipated benefits have motivated the New Mexico Bar encourage the Judiciary to implement statewide e-filing in New Mexico. Other states have implemented statewide e-filing due to the efficiencies involved for courts and private attorneys and many New Mexico attorneys wish for similar benefits to be provided in New Mexico.

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

SIGNIFICANT ISSUES

E-filing will lead to court management improvement. New Mexico courts now manage 367,000 new case filings annually. The actual document management work associated with these filings, while significant, is only small part of the task of managing cases, which includes scheduling court events, recording all court activities, recording case dispositions, and much more.

Case filings are now accepted, in person, at courts throughout the state. The current manual process includes the acceptance of a filing, collection of filing fees, docketing the filing in the court case management application, and then appropriately filing and/or routing the paper files. One of the most important activities in any court is the accurate physical filing and storage of paper court files to ensure that case files will remain secure, intact and easily accessible.

AOC states if this bill is not enacted the Judiciary will fall further behind with delivery of electronic services to constituents and stakeholders. Court e-filing has become the accepted practice in the federal courts and larger state courts, and parties to court cases in New Mexico expect the Judiciary to provide these same services.

ADMINISTRATIVE IMPLICATIONS

Implementation of E-filing and other E-services will involve the creation of administrative oversight structures by the AOC to track funds and manage the program.

TECHNICAL ISSUES

Since the AOC anticipates that an existing national E-filing vendor will be assigned to operate E-Filing and E-services applications, they believe that any technical issues should be minor.

DW/svb:mt